

Remarks

In the outstanding Official Action, the Examiner:

- (1) indicated that the Amendment filed on June 30, 2003 has been entered, claims 1-4 are pending in the application, and claims 3 and 4 are withdrawn from consideration as directed to a non-elected invention;
- (2) indicated that the rejection of claims 1 and 2 under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention has been withdrawn; and
- (3) rejected claims 1 and 2 under 35 USC 102(a) as being unpatentable over Jungk in view of Pirtle et al. and Leon et al.

In response to Item 1 above, Applicants acknowledge that claims 3 and 4 are withdrawn from consideration as directed to a non-elected invention. Applicants expressly reserve the right to prosecute all non-elected subject matter in a related application.

In response to Item 2 above, Applicants thank the Examiner for her indication that the rejection of claims 1 and 2 under 35 USC 112 has been withdrawn.

In response to Item 3 above, Applicants have now canceled claim 1 (subject to Applicants' right to prosecute the subject matter of this claim in a related application) so as to limit the issues pending in this case, and have now amended claim 2 so as to further distinguish the present invention from the prior art of record. Reconsideration of amended claim 2 is respectfully requested.

Claim 2 of the present invention comprises a process for preparing encapsulated pigment granules, the process comprising, inter alia, the steps of rotating the pigment powder in the mixer so as to result in the formation of compacted pigment granules of approximately 0.30-1.20 mm diameter, with the compacted pigment granules being created solely through the action of rotational compaction and in the absence of a binder or encapsulation solution; spraying a liquid encapsulation solution onto the cascading compacted pigment granules so as to create encapsulated compacted pigment granules; and then drying the encapsulated compacted pigment granules.

The novel process of claim 2 provides encapsulated compacted pigment granules which will remain free flowing after storage for a reasonable length of time, yet may thereafter be effectively dispersed throughout the landscaping and/or construction material

with the presence of ordinary water. (See page 3, lines 13-19 of the specification.) The encapsulated compacted pigment granules provided by the present invention are particularly advantageous in that the encapsulant is concentrated on the outer surface of the granules, with the pigment powder concentrated in the center of the granules, so as to permit the pigment powder to flow freely once the encapsulant is broken.

In use, the encapsulated pigment granules are mixed with the landscaping and/or construction materials in an environment where water is present, whereby the encapsulated pigment granules will break down and release their pigment powder for mixing with the landscaping and/or construction materials, whereby to dye the same. (See page 27, lines 1-7 of the specification.)

(i) Compacted vs. Uncompacted

Applicants believe that Jungk discloses a process for dyeing concrete with uncompacted granules that consist of one or more binders for promoting the dispersal of the pigments in the concrete. Applicants further believe that Jungk discloses a process for making uncompacted granules using "conventional rotating suitable palletizing plates" in which pigment powders are fed via metering screw conveyors and the binders dissolved in water are delivered in drops to the plate. Applicants believe

that Jungk also discloses creating uncompacted granules through the use of a rotating granulating drum, or a roll or belt dryer with subsequent granulation, or a spray tower, etc. However, Jungk expressly teaches making uncompacted pigment granules, and Jungk expressly teaches away from creating compacted granules. See, for example, Jungk at col. 2, lines 55-62; col. 7, lines 17-18; and col. 8, lines 27-29. Thus, Applicants believe that Jungk teaches away from preparing compacted pigment granules of the sort created by Applicant.

Applicants believe that Jungk teaches granules which essentially consist of uncompacted pigment and one or more binders for promoting the dispersal of the pigment in concrete. Applicants believe that Jungk specifically teaches away from the present invention, and from an unqualified interpretation of the statement that "suitable pigment granules can be made by any of numerous method in the art", inasmuch as Jungk further states in the same sentence that "granules made by compacting processes cannot be used in the process in accordance with the [Jungk] invention because they can be dispersed only with difficulty." (See column 2, lines 53-62.)

Applicants have also carefully reviewed Pirtle et al. and Leon et al. and believe that the prior art of record does not

disclose or suggest a process for preparing compacted pigment granules, the process comprising the steps of (1) rotating the mixer for approximately 0.5-2.0 hours, with the pigment powder cascading within the mixer so as to result in the formation of compacted pigment granules of approximately 0.30-1.20 mm diameter, with the compacted pigment granules being created solely through the action of rotational compaction and in the absence of a binder or encapsulation solution, and spraying, while the mixer is rotating, a polyvinyl alcohol liquid encapsulant solution onto cascading compacted pigment granules whereby to encapsulate the cascading compacted pigment granula.

(ii) Encapsulant vs. Dispersed Binder

In addition to the foregoing, Applicants also believe that the prior art of record, including Jungk, do not disclose a process for preparing encapsulated pigment granules, the process comprising the step of rotating the mixer for approximately 0.5-2.0 hours, with the pigment powder cascading within the mixer, so as to result in the formation of compacted pigment granules of approximately 0.30-1.20 mm diameter, with the compacted pigment granules being created solely through the action of rotational compaction and in the absence of a binder or encapsulation solution, and spraying, while the mixer is rotated, liquid

encapsulation solution onto the cascading compacted pigment granules of approximately 0.30-1.20 mm diameter, where the liquid encapsulation solution is made by mixing 200-850 liters of water with 2.5-15 kg of polyvinyl alcohol encapsulating powder, and where the liquid encapsulation solution is sprayed at a rate of 40-200 liters per hour, for 1-4 hours, whereby the liquid encapsulation solution encapsulates the cascading, previously-formed compacted pigment granules, with the encapsulated compacted pigment granules having a diameter of approximately 0.30-1.2 mm diameter and a moisture content of approximately 10-14%; and directing, while the mixer is rotating, heated air at a temperature of 200-600 degrees C onto the encapsulated compacted pigment granules, so that the encapsulated compacted pigment granules are dried at a temperature of approximately 50-100 degrees C, and continuing this process for approximately 2-3 hours until the moisture content of the encapsulated compacted pigment granules is reduced to approximately 2% or less whereupon the encapsulated compacted pigment granules are removed from the mixer.

By contrast, Applicants believe that Jungk discloses a process for preparing pigment granules using a mixture of

pigment, binder and liquid to form pigment granules which have the binder dispersed throughout the body of the granule.

Applicants' encapsulated pigment granules are highly advantageous during use, since once Applicants' encapsulation layer is broken, the pigment is readily released for mixing. Thus, Applicants' pigment granules are easier to break down than Jungk's granules, which have a binder throughout the body of the granule. Applicants further believe that the additional prior art of record (i.e., Pirtle et al., Leon et al. and the other prior art of record) does not disclose or suggest a process for preparing encapsulated compacted pigment granules. Accordingly, claim 2 is believed to be in condition for allowance, and allowance is respectfully requested.

In view of the foregoing, claim 2 is believed to be in condition for allowance. Early and favorable reconsideration is therefore respectfully solicited.

Respectfully submitted,



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